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ABSTRACT

This document is a report on a resolution recommending that states develop and adopt a Uniform Grandparent's Visitation Act which would allow grandparents to petition state courts for the right to visit their grandchildren after the dissolution of the grandchildren's parents' marriage (by divorce, separation, or death). The resolution calls for technical assistance in developing a Best Interest of the Child standard by the National Center for Child Abuse and Neglect and the Administration on Aging. The justification for this legislation is the lack of uniformity in existing state laws and the vagueness of these laws. It is further reported that this resolution entails no federal costs and thus no inflationary impact. (ABL)

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99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 99-52
Part 1

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GRANDPARENTS' RIGHTS

APRIL 22, 1985.—Ordered to be printed

Mr. HAWKINS, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H. Con. Res. 67]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the resolution (H. Con. Res. 67) expressing the sense of the Congress that a uniform State act should be developed and adopted which provides grandparents with adequate rights to petition State courts for privileges to visit their grandchildren following the dissolution (because of divorce, separation, or death) of the marriage of such grandchildren's parents, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution do pass.

ED265470

SUMMARY OF RESOLUTION

House Concurrent Resolution 67 expresses the sense of the House of Representatives that a Model Uniform Act, "Uniform Grandparents Visitation Act", should be developed which would grant grandparents adequate rights to petition the State courts for visitation privileges with their grandchildren following marriage dissolution of such grandchildren's parents. The resolution also requests that the National Center for Child Abuse and Neglect (NCCAN) and the Administration on Aging provide technical assistance to the States in developing guidelines to be used to determine that "Best Interest of the Child" standard and to take into account the ability of grandparents to provide continuity of care after a dissolution.

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LEGISLATION CONSIDERATION

House Concurrent Resolution 67 was introduced on February 26, 1985, by Mr. Biaggi. The resolution was jointly referred to the Com-

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mittee on Education and Labor and Judiciary. A nearly identical resolution was introduced in the 97th and 98th Congresses. Hearings were held in the House during the 97th and 98th Congresses. In the 98th Congress, that resolution (H. Con. Res. 45) passed the House of Representatives unanimously by voice vote. No additional hearing this year was therefore felt necessary. The Report from the 98th Congress is REPT. 98-61 Part 1.

On April 3, the Subcommittee on Select Education of the House Committee on Education and Labor unanimously passed the resolution by a voice vote. On April 16, 1985, the Committee on Education and Labor ordered it reported unanimously, by a voice vote.

Justification for the Legislation

Forty-nine States currently statutorily authorize grandparents visitation under certain circumstances. The scope of these statutes varies. Most refer specifically to grandparents and become operative when the grandchild's parents are separated or divorced. A few apply only when a parent is deceased. A few specifically include great grand-parents, while others apply to "any relative", or the broadest language, "any person." One State specifically authorizes grandparental visitation with a child who has been placed in a foster home. A small number of States now provide statutorily that stepparent adoption does not automatically terminate grandparental visitation rights.

These State statutes lack uniformity and thus do not grant equal protection to all grandparents in similar circumstances. State laws as currently written are deficient in three important respects. First, the privileges vary widely from State to State. Second, while forty-nine States use the "child's best interest" standard in awarding visitation, this standard is vague and too often fails to consider the vital relationship between grandparents and grandchildren. Third, the lack of a uniform approach among the States presents obstacles for interstate enforcement.

In conclusion, the Committee agrees that the development and adoption of a "Uniform Grandparents Visitation Act" must be based on the presumption of the "best interests of the child", thus, this presumption must continue to be paramount in making visitation determinations. However, the resolution acknowledges that the child's "best interests" are often served by maintaining relations with grandparents. Given the fact that forty-nine States do have laws granting grandparents the right to petition, the adoption of a uniform approach could only facilitate interstate recognition and promote the equal protection clause of the laws as envisioned by the Constitution.

Oversight

No findings or recommendations concerning oversight of the provisions of this resolution have been received by the Committee from the Committee on Government Operations. The Committee's oversight is reflected in its own hearings in the last Congress regarding this resolution.

Cost Estimate

In compliance with clause 2(l)(3)(C) of the Rules of the House of Representatives, the estimate and comparison prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974, as timely submitted prior to the filing of this Report, is set forth below, and the Commission concurs in this estimate:

U.S. Congress,
Congressional District Office,
Washington, DC, April 16, 1985.

Hon. Augustus F. Hawkins,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has examined the federal cost impact of H. Con. Res. 67 as ordered reported from the House Education and Labor Committee April 16, 1985. This resolution suggests that uniform state laws be adopted to provide grandparents adequate rights to visit their grandchildren following the dissolution of the marriage of the grandchildren's parents. Based on our analysis, there would be no increase in federal costs as a result of passage of this bill.

The purpose of H. Con. Res. 67 is to recommend that a uniform state act be adopted by all states. The resolution does not mandate that any specific actions be taken by the states and thus has no direct state and local cost impact. If the states were to adopt such an act, state and local budgets could be affected when the procedures for the interstate recognition and enforcement of state court orders granting visitation privileges for grandparents are implemented.

Please call me if you have any questions or have your staff contact Deborah Kalcevic (226-2820).

With best wishes,

Sincerely,

Rudolph G. Penner.

Inflationary Impact

Since this resolution does not call for the expenditure of any funds, the Committee does not anticipate any inflationary impact if it is adopted.

Section-by-Section Analysis

The first section of the resolution expresses the sense of the House of Representatives that the States should develop and enact a Model State Act which (a) grants grandparents adequate rights to petition state courts for visitation privileges with their grandchildren following marriage dissolution of such grandchildren's parents (the language encompasses stepparent adoption); and (b) establishes procedures for the interstate recognition and enforcement of state court orders granting such visitation privileges. In the second section, the Secretary of Health and Human Services (HHS), through the National Center for Child Abuse and Neglect (NCCAN) and the Administration on Aging, is requested to provide

technical assistance to states in developing, publishing and disseminating guidelines. These guidelines may be used in determining the "best interest of the child" in each case and are to take into account the ability of the grandparents to help satisfy a child's need for continuity of care following the marriage dissolution of the child's parents.

Changes in Existing Law

H. Con. Res. 67 makes no changes in present Federal law; it adds, deletes or amends no United States Code provisions.

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